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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,293	12/08/2000	Timo Hanninen	367.39331X00	2672

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EXAMINER

HSU, ALPUS

ART UNIT PAPER NUMBER

2665

DATE MAILED: 08/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/732,293

Applicant(s)

HANNINEN ET AL.

Examiner

Alpus H. Hsu

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-11 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-11 and 13-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3 1/2, 4.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Claims 1-6, 8 and 9 are rejected as vague and indefinite since each claim recites only a single means (i.e. a controller) and thus encompasses all possible means for performing a desired function. See Ex parte Bullock, 1907 C.D. 93; 127 O.G. 1580.
3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 11, line 1, the claim dependency should be changed from "claim 9" to --claim 10--.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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5. Claims 1-6, 8-11, 13-22 are rejected under 35 U.S.C. 102(e) as being anticipated by BALCK in WO 99/53700.

Regarding claim 1, BALCK discloses a network for communicating with a plurality of radiotelephones (46s) via respective communication channels over timeslots on a carrier, wherein the channels can operate at a first data rate or a second data rate (page 13, lines 19-23), wherein the network comprising a controller (38 and 42) responsive to a predetermined condition for initiating a change in the data rate of a transmitted channel from the first data rate to the second data rate (page 3, lines 3-10, page 8, lines 7-22, page 9, lines 3-24).

Regarding claim 2, BALCK discloses a controller (38 and 42) responsive to the predetermined condition for initiating a change in the data rate of two channels transmitted on separate time slots from the first data rate to the second data rate and combining the two channels onto the same time slot (page 8, lines 7-22).

Regarding claims 3 and 13, BALCK discloses the first data rate is a full speech rate and the second data rate is a half speech rate (page 8, lines 7-22).

Regarding claims 4, 14 and 15, BALCK discloses the predetermined condition is that the number of channels established in the network exceeds a predetermined threshold (page 9, lines 3-24, page 10, line 25 to page 11, line 22, page 13, lines 3-16).

Regarding claims 5, 16-18, BALCK discloses the predetermined condition is the initiation of a channel with a second network (page 7, lines 1-6).

Regarding claims 6, 19-22, BALCK discloses the two channels originated in the network (page 5, lines 6-16).

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Regarding claim 8, BALCK discloses a controller (38 and 42) for operation in a network for communicating with a plurality of radiotelephones (46s) via respective communication channels over timeslots on a carrier, wherein the channels can operate at a first data rate or a second data rate (page 13, lines 19-23), wherein the controller (38 and 42) comprising means responsive to a predetermined condition for initiating a change in the data rate of a transmitted channel from the first data rate to the second data rate (page 3, lines 3-10, page 8, lines 7-22, page 9, lines 3-24).

Regarding claim 9, BALCK discloses a radiotelephone (46) for operation with a network which initiates a change in the data rate of a channel from the first data rate to the second data rate comprising a controller (92) responsive to a signal from the network for changing the data rate (page 10, lines 9-16).

Regarding claim 10, BALCK discloses a method for communicating with a plurality of radiotelephones (46s) via respective communication channels over timeslots on a carrier, wherein the channels can operate at a first data rate or a second data rate (page 13, lines 19-23), by initiating a change in the data rate of a transmitted channel from the first data rate to the second data rate responsive to a predetermined condition (page 3, lines 3-10, page 8, lines 7-22, page 9, lines 3-24).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mayrand et al., Hamalainen et al., Desgagne et al., Khan et al. and Andersson are cited to show the common feature of channel assignment for load balancing in wireless network similar to the claimed invention.

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Uddenfeldt et al. and Aoki are cited to show the feature of handoff of a mobile station between half rate and full rate channels similar to the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (703)305-4377. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (703)308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH



Alpus H. Hsu  
Primary Examiner  
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